



1995 ASSEMBLY BILL 444

June 20, 1995 - Introduced by Representatives SERATTI, GOETSCH, MUSSER, PORTER, DUFF, GREEN, KELSO, OWENS, F. LASEE, OLSEN, HANDRICK, HAHN, FREESE, KREIBICH, AINSWORTH, ALBERS, ZUKOWSKI, SKINDRUD, VRAKAS, SILBAUGH, SCHNEIDERS, GARD, OTT, RYBA, HASENOHRL, KREUSER, ZIEGELBAUER and WIRCH, cosponsored by Senators PETAK, HUELSMAN, DARLING, A. LASEE, FARROW, ZIEN, DRZEWIECKI and BRESKE. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 301.37 (1), 302.38 (4), 302.381, 302.425 (1), 302.425 (3), 351.08,
2 973.03 (3) (d) and 973.09 (4); and **to create** 161.01 (12m) (f), 302.372, 303.08
3 (5m) and 303.10 of the statutes; **relating to:** county prisoners and county work
4 camps.

Analysis by the Legislative Reference Bureau

PRISONER REIMBURSEMENT TO COUNTY

Under current law, there are various specific provisions authorizing counties to collect certain costs of maintaining prisoners in county jails, houses of correction or Huber (work release) facilities. For example, counties may recover certain medical and hospital costs incurred by jail prisoners. This bill creates a general provision authorizing a county to seek reimbursement for the expenses incurred by the county for persons who have been sentenced, or confined pursuant to probation, and are in a county jail, house of correction, Huber facility or work camp (see next section of analysis about work camps).

Under the bill, the county may obtain information on the financial status of each prisoner. The sheriff may obtain reimbursement by charging the prisoner while he or she is a prisoner, the district attorney or corporation counsel may bring a civil action to recover the expenses or the county may use a combination of these 2 methods.

COUNTY WORK CAMPS

Under current law, a county board may maintain a Huber facility for county prisoners with work release privileges. The sheriff collects the earnings of these prisoners or the prisoners turn over their earnings to the sheriff. The sheriff then disburses the earnings according to the following priority order: first, board payments; 2nd, travel and other expenses; 3rd, support payments; 4th, payment of obligations; and 5th, payment to the prisoner upon discharge.

This bill authorizes a county, or 2 or more counties acting jointly, to establish a work camp. The sheriff assigns prisoners at a work camp to perform work, on a voluntary basis, at paid employment, work on a public works project or work for a public interest or a charitable purpose. The sheriff collects the earnings of these prisoners or the prisoners turn their earnings over to the sheriff. The sheriff disburses the earnings according to the following priority order: first, reimbursement to the county for food, clothing and travel expenses; 2nd, support for dependents who are receiving public assistance; 3rd, support for other dependents; and 4th, payment to the prisoner's institutional account. Counties, employers and organizations involved in a work camp option, and their officers, employees and agents are immune from civil liability for their good faith acts or omissions related to provision of a work camp option.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 161.01 (12m) (f) of the statutes is created to read:

2 161.01 (**12m**) (f) A work camp under s. 303.10.

3 **SECTION 2.** 301.37 (1) of the statutes is amended to read:

4 301.37 (**1**) The department shall fix reasonable standards and regulations for
5 the design, construction, repair and maintenance of houses of correction,
6 reforestation camps maintained under s. 303.07, jails as defined in s. 302.30,
7 extensions of jails under s. 59.68 (7), rehabilitation facilities under s. 59.07 (76),
8 lockup facilities as defined in s. 302.30, work camps under s. 303.10, Huber facilities
9 under s. 303.09 and, after consulting with the department of health and social
10 services, secure detention facilities, with respect to their adequacy and fitness for the
11 needs which they are to serve.

12 **SECTION 3.** 302.372 of the statutes is created to read:

13 **302.372 Prisoner reimbursement to a county.** (1) DEFINITIONS. In this
14 section:

1 (a) "Jail" includes a house of correction, Huber facility under s. 303.09 or a work
2 camp under s. 303.10.

3 (b) "Sheriff" includes a superintendent or other keeper of a jail.

4 **(2) REIMBURSEMENT OF EXPENSES; COUNTY OPTION.** (a) Except as provided in pars.
5 (c) and (d), a county may seek reimbursement for any expenses incurred by the
6 county in relation to the crime for which a person was sentenced to a county jail, or
7 for which the person was placed on probation and confined in jail, as follows:

8 1. From each person who is or was a prisoner, not more than \$30 per day for
9 the expenses of maintaining that prisoner or the actual per-day cost of maintaining
10 that prisoner, whichever is less, as set by the county board by ordinance, for the
11 entire period of time that the person is or was confined in the jail, including any
12 period of pretrial detention.

13 2. To investigate the financial status of the person.

14 3. Any other expenses incurred by the county in order to collect payments under
15 this section.

16 (b) Before seeking any reimbursement under this section, the county shall
17 provide a form to be used for determining the financial status of prisoners. The form
18 shall provide for obtaining the age and marital status of a prisoner, the number and
19 ages of children of a prisoner, the number and ages of other dependents of a prisoner,
20 type and value of real estate owned by a prisoner, type and value of personal property
21 owned by a prisoner, the prisoner's cash and financial institution accounts, type and
22 value of the prisoner's investments, pensions and annuities and any other
23 personality of significant cash value owned by a prisoner. The county shall use the
24 form whenever investigating the financial status of prisoners.

1 (c) This section applies to expenses incurred on or after the effective date of this
2 paragraph [revisor inserts date].

3 (d) The sheriff shall choose, for each prisoner, whether to seek reimbursement
4 under this section or as otherwise provided in chs. 301 to 303, but may not collect for
5 the same expenses twice. The sheriff may choose to seek reimbursement for the
6 expenses under sub. (2) (a) using the method under sub. (5), the method under sub.
7 (6) or a combination of both methods, but may not seek reimbursement for the same
8 expenses twice.

9 **(3) LIST OF PRISONERS; INFORMATION; REPORTS.** At the request of the county board,
10 the sheriff shall provide the board with a list containing the name of each sentenced
11 prisoner or prisoner confined as a condition of probation, the term of sentence or
12 confinement, and the date of admission, together with information regarding the
13 financial status of each prisoner. The county board may investigate any information
14 provided under this subsection to enable the county to obtain reimbursement under
15 this section.

16 **(4) PRISONER COOPERATION.** A prisoner in a jail shall cooperate with the county
17 in seeking reimbursement under this section for expenses incurred by the county for
18 that prisoner. A prisoner who intentionally refuses to cooperate under this
19 subsection may not earn good time credit under s. 302.43 or diminution of sentence
20 under s. 303.19 (3). If the prisoner is confined as a condition of probation, refusal to
21 cooperate is a ground for revocation of probation.

22 **(5) CHARGE TO OBTAIN REIMBURSEMENT.** The sheriff may charge a prisoner for the
23 expenses under sub. (2) (a) while he or she is a prisoner. If the sheriff maintains an
24 institutional account for a prisoner's use for payment for items from canteen,
25 vending or similar services, the sheriff may make deductions from the account to pay

1 for the expenses under sub. (2) (a). Any money collected under this subsection shall
2 be deposited in the county treasury.

3 **(6) ACTION TO OBTAIN REIMBURSEMENT.** (a) Within 6 months after the release of
4 a prisoner from jail, the district attorney or corporation counsel for the county where
5 the jail is located shall commence a civil action in circuit court to obtain a judgment
6 for the expenses under sub. (2) (a) or be barred. The sheriff shall provide any
7 assistance that the district attorney or corporation counsel requests related to an
8 action under this subsection.

9 (b) An action commenced under this subsection shall be commenced in the
10 county where the jail is located or in the county where the defendant resides.

11 (c) The complaint in an action commenced under this subsection shall include
12 the date and place of the sentence, the length of time of the sentence, the length of
13 time actually served in the jail and the amount of expenses incurred by the county
14 under sub. (2) (a).

15 (d) Before entering a judgment for the county, the court shall consider any legal
16 obligations of the defendant for support or maintenance under ch. 767 and any moral
17 obligation of the defendant to support dependants and may reduce the amount of the
18 judgment entered for the county based on those obligations.

19 (e) Any money obtained as the result of an action commenced under this
20 subsection shall be deposited in the county treasury.

21 **SECTION 4.** 302.38 (4) of the statutes is amended to read:

22 302.38 (4) The governmental unit paying the costs of medical or hospital care
23 under this section may collect the value of the same from the prisoner or the
24 prisoner's estate as provided for in s. 49.08. If applicable, the governmental unit may

1 proceed to collect under this section or may seek reimbursement under s. 302.372,
2 but may not collect for the same expenses twice.

3 **SECTION 5.** 302.381 of the statutes is amended to read:

4 **302.381 Emergency services for crisis intervention for prisoners.** The
5 costs of providing emergency services for crisis intervention for prisoners of a jail or
6 house of correction with medical illnesses or disabilities, mental illnesses,
7 developmental disabilities or alcohol or other drug abuse problems are payable
8 according to the criteria under s. 302.38 (2). If applicable, a county may seek
9 payment under this section or seek reimbursement under s. 302.372, but may not
10 collect for the same expenses twice.

11 **SECTION 6.** 302.425 (1) of the statutes is amended to read:

12 302.425 (1) DEFINITION. In this section, “jail” includes a house of correction, a
13 work camp under s. 303.10 and a Huber facility under s. 303.09.

14 **SECTION 7.** 302.425 (3) of the statutes is amended to read:

15 302.425 (3) PLACEMENT IN THE PROGRAM. If a prisoner described under sub. (2)
16 and the department agree, the sheriff may place the prisoner in the home detention
17 program and provide that the prisoner be detained at the prisoner’s place of
18 residence or other place designated by the sheriff and be monitored by an active
19 electronic monitoring system. The sheriff shall establish reasonable terms of
20 detention and ensure that the prisoner is provided a written statement of those
21 terms, including a description of the detention monitoring procedures and
22 requirements and of any applicable liability issues. The terms may include a
23 requirement that the prisoner pay the county a daily fee to cover the county costs
24 associated with monitoring him or her. The county may obtain payment under this
25 subsection or s. 302.372, but may not collect for the same expenses twice.

1 **SECTION 8.** 303.08 (5m) of the statutes is created to read:

2 303.08 **(5m)** A county may receive payments under sub. (5) (a) and (b) or seek
3 reimbursement under s. 302.372, but may not collect for the same expenses twice.

4 **SECTION 9.** 303.10 of the statutes is created to read:

5 **303.10 County work camp. (1)** The county board of any county may provide
6 a work camp for the reformation and employment of persons sentenced to the county
7 jail. Any 2 or more counties may jointly provide one work camp.

8 **(2)** The sheriff may transfer persons between a county jail and a work camp.

9 **(3)** The sheriff may provide prisoners assigned to a work camp the opportunity,
10 on a volunteer basis, to do any of the following:

11 (a) Perform meaningful work at paid employment in the community.

12 (b) Provide labor on a public works project.

13 (c) Perform meaningful work on a project that serves the public interest or a
14 charitable purpose and is operated by an organization that is exempt from federal
15 income taxation under section 501 (c) (3) of the internal revenue code, but only if the
16 work performed does not result in a competitive disadvantage to a for-profit
17 enterprise.

18 **(4)** The sheriff shall not assign prisoners to work under sub. (3) on projects in
19 a manner that results in the displacement of employed persons in the community or
20 the replacement of workers on strike or locked out of work. If a collective bargaining
21 agreement is in effect at a place of employment that is the site of a proposed work
22 project under sub. (3) (c), that bargaining unit must agree to the assignment of
23 prisoners at the place of employment before the assignment is made.

24 **(5)** Any intentional failure of a prisoner to report to or return from a work
25 assignment is considered an escape under s. 946.42 (3) (a).

1 **(6)** Any prisoner employed under sub. (3) (a) shall reimburse the county for
2 food, clothing and daily travel expenses to and from work for days worked. The
3 county may collect moneys under sub. (8) (a) or may seek reimbursement under s.
4 302.372, but may not collect for the same expenses twice.

5 **(7)** The sheriff shall collect the wages or salary of each prisoner employed under
6 sub. (3) or require the prisoner to turn over the wages, salary or benefits in full when
7 received. The sheriff shall deposit the wages, salary or benefits in a trust checking
8 account and shall keep a ledger showing the status of the account of each prisoner.
9 The wages or salary are not subject to garnishment in the hands of either the
10 employer or the sheriff during the prisoner's term, and shall be disbursed only as
11 provided in this section; but for tax purposes they are income of the prisoner.

12 **(8)** Except as provided in sub. (9), the sheriff shall disburse wages, salary or
13 benefits collected under sub. (7) in the following priority order:

14 (a) Reimbursement to the county under sub. (6).

15 (b) Support of the prisoner's dependents who are receiving public assistance,
16 as defined in s. 101.38 (1) (g), up to the maximum of the public assistance benefit but
17 not exceeding 50% of the prisoner's net earnings.

18 (c) For prisoners without dependents receiving public assistance, placement,
19 at the prisoner's option, of 50% of the prisoner's net earnings in either the prisoner's
20 personal savings account in a financial institution or in escrow by the department
21 for use by the prisoner upon release.

22 (d) The balance, if any, to the prisoner's institutional account.

23 **(9)** The county board may enact an ordinance to require the sheriff to disburse
24 wages, salary or benefits collected under sub. (7) using the priority order under s.
25 303.08 (5) instead of the priority order under sub. (8).

1 **(10)** An employer that employs a prisoner for work under this section shall pay
2 the prisoner at a rate agreed upon with the sheriff.

3 **(11)** (a) Any officer, employe or agent of a county, employer or organization
4 involved in the provision of any of the work camp options listed under sub. (3), and
5 the county, employer and organization, are immune from civil liability for the death
6 or injury of a prisoner caused by the good faith act or omission of the officer, employe
7 or agent of the county, employer or organization related to carrying out any
8 responsibilities under a work camp option.

9 (b) The immunity under this subsection includes any good faith act or omission
10 that occurs during the transportation of a prisoner to or from a work camp option
11 listed under sub. (3).

12 (c) The immunity under this subsection does not apply to any person whose act
13 or omission involves reckless, wanton or intentional misconduct.

14 **SECTION 10.** 351.08 of the statutes is amended to read:

15 **351.08 Operation of motor vehicle by habitual traffic offender or**
16 **repeat habitual traffic offender prohibited; penalty; enforcement.** Any
17 person who is convicted of operating a motor vehicle in this state while the revocation
18 under this chapter is in effect shall, in addition to any penalty imposed under s.
19 343.44, be fined not to exceed \$5,000 and imprisoned not to exceed 180 days. No
20 portion of the sentence may be suspended, except in a case where operating was
21 made necessary by a situation of emergency, as determined by the court. Any person
22 imprisoned under this section, on his or her request, may be allowed Huber law work
23 privileges under s. 303.08 or may be allowed to work under s. 303.10 (3). For the
24 purpose of enforcing this section, in any case in which the accused is charged with
25 driving a motor vehicle while his or her license, permit or privilege to drive is

1 suspended or revoked or is charged with driving without a license, the court before
2 hearing the charge shall determine whether the person is a habitual traffic offender
3 or repeat habitual traffic offender and therefore barred from operating a motor
4 vehicle on the highways of this state.

5 **SECTION 11.** 973.03 (3) (d) of the statutes is amended to read:

6 973.03 (3) (d) This subsection applies to persons who are sentenced to a county
7 jail but are transferred to a Huber facility under s. 303.09, to a county work camp
8 under s. 303.10 or to a tribal jail under s. 302.445.

9 **SECTION 12.** 973.09 (4) of the statutes is amended to read:

10 973.09 (4) The court may also require as a condition of probation that the
11 probationer be confined during such period of the term of probation as the court
12 prescribes, but not to exceed one year. The court may grant the privilege of leaving
13 the county jail, Huber facility, work camp or tribal jail during the hours or periods
14 of employment or other activity under s. 303.08 (1) (a) to (e) while confined under this
15 subsection. The court may specify the necessary and reasonable hours or periods
16 during which the probationer may leave the jail, Huber facility, work camp or tribal
17 jail or the court may delegate that authority to the sheriff. In those counties without
18 a Huber facility under s. 303.09, a work camp under s. 303.10 or an agreement under
19 s. 302.445, the probationer shall be confined in the county jail. In those counties with
20 a Huber facility under s. 303.09, the sheriff shall determine whether confinement
21 under this subsection is to be in that facility or in the county jail. In those counties
22 with a work camp under s. 303.10, the sheriff shall determine whether confinement
23 is to be in the work camp or the county jail. The sheriff may transfer persons confined
24 under this subsection between a Huber facility or a work camp and the county jail.
25 In those counties with an agreement under s. 302.445, the sheriff shall determine

1 whether confinement under this subsection is to be in the tribal jail or the county jail,
2 unless otherwise provided under the agreement. In those counties, the sheriff may
3 transfer persons confined under this subsection between a tribal jail and a county
4 jail, unless otherwise provided under the agreement. While subject to this
5 subsection, the probationer is subject to s. 303.08 (1), (3) to (6), (8) to (12) and (14),
6 or to s. 303.10, whichever is applicable, and to all the rules of the county jail, Huber
7 facility, work camp or tribal jail and the discipline of the sheriff.

8 **SECTION 13. Initial applicability.**

9 (1) The treatment of section 302.372 of the statutes first applies to expenses
10 incurred on the effective date of this subsection.

11 (END)